

Notice of Allowability

Application No.

09/818,943

Examiner

Brian Whiteman

Applicant(s)

ERIKSSON ET AL.

Art Unit

1635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 4/12/05.
2. ☒ The allowed claim(s) is/are 1,5-9,12,14,15,18-20,22-25,29.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

5.00

EXAMINER'S COMMENTS

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/12/05 has been entered.

Claim 5 was amended because of a typographical error at the end of the claim and to better reflect the nature of the invention directed to the polypeptide of SEQ ID NO: 1 or SEQ ID NO: 2.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: In view of the prior art of record, the applicants are the first inventor(s) to reduce to practice a transgenic mouse, wherein the transgenic mouse contains a polynucleotide encoding SEQ ID NO: 1 or 2 stably integrated into its genomic DNA and the transgenic mouse overexpresses the polypeptide of SEQ ID NO: 1 or 2 and develops myocyte hypertrophy or heart fibrosis.

The closest prior art (Gao et al., US 6,432,673) was cited in the office action mailed on 7/25/03. As stated in that action mailed on 2/23/04, Gao does not teach or make obvious the use of the claimed transgenic mouse with the desired phenotype.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kening Li on 8/31/05.

The application has been amended as follows:

The term "a polypeptide having platelet-derived growth factor C (PDGF-C) activity" on line 16 of claim 1 has been deleted and replaced with -- the polypeptide comprising SEQ ID NO: 1 or SEQ ID NO: 2 --.

The term "a polypeptide having platelet-derived growth factor C (PDGF-C) activity" on line 16 of claim 5 has been deleted and replaced with -- the polypeptide comprising SEQ ID NO: 1 or SEQ ID NO: 2 --.

The term "a polypeptide having platelet-derived growth factor C (PDGF-C) activity" on lines 3-4 of claim 12 has been deleted and replaced with -- the polypeptide comprising SEQ ID NO: 1 or SEQ ID NO: 2 --.

The term “an alpha-myosin heavy chain promoter” on lines 18-19 of claim 5 has been deleted.

The term “transgenic” has been inserted before the term mouse on line 1 of claim 9.

The phrase -- , wherein said polynucleotide is stably integrated into the genome of the mouse and wherein the transgenic mouse develops myocyte hypertrophy or heart fibrosis during its life time -- has been inserted after the term “claim 1” on lines 1-2 of claim 9.

The term “a polypeptide having platelet-derived growth factor C (PDGF-C) activity” on lines 10-11 of claim 29 has been deleted and replaced with -- the polypeptide comprising SEQ ID NO: 1 or SEQ ID NO: 2 --.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Whiteman whose telephone number is (571) 272-0764. The examiner can normally be reached on Monday through Friday from 7:00 to 4:00 (Eastern Standard Time), with alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang, acting SPE – Art Unit 1635, can be reached at (571) 272-0811.

Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center located in Crystal

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Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center number is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

Brian Whiteman
Patent Examiner, Group 1635

Joe W. [Signature]
AU 1635